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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 002180

SIPDIS

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DOE FOR ALAN HEPBURG

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TAGS: [EPET](#) [ENRG](#) [PREL](#) [IZ](#)

SUBJECT: KRG NEGOTIATOR ON HYDROCARBONS LAW

REF: BAGHDAD 1989

Classified By: CETI EMIN Ambassador Charles Ries, reasons 1.4 b,d

¶1. (C) Summary: KRG senior adviser Dr. Rosch Shaways met July 9 with EMIN to discuss Kurdish positions on the hydrocarbon and related legislative proposals. Shaways presented scaled-back Kurdish requirements for a hydrocarbon package: an independent federal-regional regulatory body to set strategy for the sector; a grandfathering of existing KRG contracts with oil companies, and constraints on central government strategic project budgeting. He also is seeking to share oversight or management of state oil company activities in KRG territory (actual or added). End summary.

¶2. (SBU) Dr. Rosch Shaways, representative of KRG Prime Minister Necirvan Barzani, met one-on-one with EMIN Ries July 9 to discuss efforts to find a solution to stalled hydrocarbon framework law and related revenue sharing bill. Dr. Rosch had participated in the meeting between PM Barzani and Ambassador June 26 (reftel), where Barzani had said Shaways would be the KRG's representative in the "political" deputies process to find a compromise for the hydrocarbons framework law and related legislative package. EMIN asked for a meeting to see where matters stood.

Dr. Rosch, the Maytag Repairman

¶3. (SBU) Shaways said that although Prime Minister Maliki had proposed that, to find a solution on hydrocarbons, he would organize and participate in a small group follow-up to Maliki-Barzani meeting during the week of June 30, "no one had called," and no meeting had transpired. The notional small group was to have included Maliki, VP Adil Mahdi, VP Tariq al Hashimi, DPM Barham Salih ("representing President Talibani") and himself ("representing Prime Minister Barzani and KRG President Masoud Barzani"). Obviously, he observed, Maliki's trip to Abu Dhabi, the expected visits of King Abdullah (later cancelled) and Prime Minister Erdogan), and other issues had been distractions. Dr. Rosch said he would remain in Baghdad through the end of July and was ready at any time to enter into discussions to find a solution on hydrocarbons.

What are the real Kurdish requirements?

¶4. (C) EMIN pressed Dr. Rosch to specify what the KRG really wanted in a hydrocarbon package, noting that the lack of a legal regime hurt the KRG most of all, since investors (such as Norwegian company DNO) who have signed production-sharing agreements with the province must be getting restive in light of their inability to export crude oil production in light of the federal Ministry of Oil's position that the region's PSA's have no standing.

¶5. (C) Shaways reiterated the KRG is prepared to "go back"

to the original February 2007 compromise. The region had scaled back its 80 or more drafting changes to the Febuary text to just 10 to 15 important ones, presented in a paper delivered to Prime Minister Maliki. The central requirements are only three, however:

a) assurance that the "oversight of sectoral policy" is really shared between the region and the federal government, as provided for in the Constitution;

b) a means to validate the KRG's existing 25 contracts; and,

c) protection that the KRG's 17 percent share of national oil export revenues will not be eroded over time with expanding off-the-top strategic spending by the national government.

Shaways said he can be flexible as to how these objectives can be met.

¶ 16. (C) EMIN asked about the other points argued by KRG Minister of Natural Resources Ashti Hawrami at the meeting with the Ambassador June 26, including demands to place performance requirements on Iraqi National Oil Company operations throughout the country, the hard line against review of the existing contracts, and mention of the Council of Ministers oversight powers in the draft law. Dr. Rosch said the PM Barzani was "not happy" with Ashti's interventions at that meeting, which he had said had been "provocative." In any event, Shaways said he had the authority to negotiate. The KRG was not/not seeking to control INOC performance in the south, but did want to "share" oversight for operations in existing or additional KRG areas. EMIN asked if by this Shaways was referring to the "Khormala question?" Shaways said it was. (Khormala is

BAGHDAD 00002180 002 OF 003

a 30 kb/d North Oil Company field in Erbil province but near to Kirkuk, guarded by Peshmerga. The Ministry of Oil and the KRG jostled recently about whether the MoO should proceed to increase production at the field in advance of the HCL.)

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KRG Basic Requirement No. 1:  
Shared responsibility for oil and gas policy

¶ 17. (C) Asked what precisely the KRG was seeking in terms of "shared" responsibility for oil and gas policy decisions, Shaways referred to the Constitution (viz. Article 112(2): "the federal government, with the producing regional and governate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth"). The KRG is willing to have the "Federal Oil and Gas Council" be the vehicle for this shared responsibility, as long as the FOGC is not subordinate to the federal Council of Ministers. Shaways stated that if there is disagreement or deadlock in the FOGC, it should be referred to the "political levels," the Prime Ministers of each entity, for resolution.

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KRG Basic Requirement No. 2:  
Legitimization of the KRG's PSA contracts

¶ 18. (C) As a political matter, Shaways insisted that any agreement on a hydrocarbons package had to result in the authorization of the KRG's 25 or so existing production sharing agreements. The regional government had considerable prestige tied up in the contracts, they have a constitutional basis in Kurdish eyes, they had been negotiated in line with the international PSA practice, and companies are undertaking exploration and development activities in good faith based on the contracts. One way or another, they would have to be grandfathered in the HCL package, although Dr. Rosch repeated PM Barzani's offer that the FOGC can "review" the contracts and if necessary the KRG would be willing request technical changes from the contractual partners. (Comment: Authorization of the contracts as part of a settlement would be worth a great deal to the KRG's contractual partners as it would allow a clear path to export routes, and the companies

accordingly may be willing to reopen contractual provisions if necessary. Also, much higher prices since the plurality of the contracts were concluded in the fall of 2007 may lead to revisions in any case.)

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KRG Basic Requirement No. 3:  
Constraints on national budget creep  
impairing the KRG's 17 percent revenue share

19. (C) Finally, Dr. Rosch elaborated on the Kurdish budgetary anxieties. The main concern is not that the KRG get 17 percent of hydrocarbon revenues after sovereign expenses. Even in advance of adoption of the Revenue Sharing Law, in the last two budget rounds the KRG obtained its 17 percent without too much fuss (albeit with a few squabbles over Peshmerga funding). The Kurds are concerned however that burgeoning central government spending and 'strategic projects' as may be undertaken in the future would reduce the net revenue amounts from which the 17 percent is calculated. From this concern the Kurds are seeking to have an aggregate limit on strategic projects, expressed as a percentage of total oil export earnings. KRG had previously proposed a 5 percent ceiling, while some cabinet members have suggested 10 or 15 percent. Dr. Rosch indicated he could settle for somewhere in the neighborhood of 7 to 8 percent. He added that the KRG also opposes for now the establishment of a Future Generation Fund, as that would also divert funds before calculation of the KRG 17 percent.

Comment

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10. (C) As usual, Dr. Rosch describes a more moderate Kurdish position on the main issues related to the hydrocarbons law. He does not have as much vested interest in the pugnacious unilateral approach espoused by Dr. Ashti, and may be reflecting the pressure Necirvan Barzani is feeling from restive investors. It is encouraging that the KRG is no longer seeking to direct development of the oil sector in the south, which was an overreach and needlessly infuriated MoO Shahrastani. On the three basic points, it would be difficult to secure the review and if necessary adjustment of the Kurdish PSA's in advance of CoR legislative consideration of the HCL and Revenue Bills, but on the other hand the KRG would be loath to do a deal without assurances about their existing deals. What the Kurds are seeking for the FOGC is a new intergovernmental institution (like the

BAGHDAD 00002180 003 OF 003

High Juridical Council), rather than a coordinating committee run by the MoO. That may be difficult to obtain from PM Maliki, who is otherwise concerned to strengthen the power of the center. End comment.

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